

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK
AT WHITE PLAINS

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GLORIA SHEPHERD,

Plaintiff,

Case No.: CV 08 6199 (WCC)

-against-

LAW OFFICES OF COHEN & SLAMOWITZ, LLP.,

Defendant.

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**ANSWER OF COHEN & SLAMOWITZ, LLP
WITH AFFIRMATIVE DEFENSES AND COUNTERCLAIM**

Defendant LAW OFFICES OF COHEN & SLAMOWITZ, LLP (the “Defendant”), by and through their counsel, The Law Offices of Michael G. Mc Auliffe, Esq., as and for their Answer to the Plaintiff’s complaint, respectfully set forth and represent as follows:

1. Deny the allegations contained in paragraphs 14 (incorrectly numbered 7) 20 (incorrectly numbered 13), 21 (incorrectly numbered 14), 24 (incorrectly numbered 17), 25 (incorrectly numbered 18), 27 (incorrectly numbered 20), 28 (incorrectly numbered 21), 30 (incorrectly numbered 23), 32 (incorrectly numbered 25), 33 (incorrectly numbered 26), 34 (incorrectly numbered 27), and the “Wherefore Clause” of the Complaint.

2. Defendant denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph 8 (incorrectly numbered 1) and 31 (incorrectly numbered 24) of the Complaint.

3. Admits the allegations contained in paragraphs 9 (incorrectly numbered 2), 10 (incorrectly numbered 3), 11 (incorrectly numbered 4), 12 (incorrectly numbered 5), 13 (incorrectly numbered 6) and 22 (incorrectly numbered 15).

4. With regard to the allegations set forth in paragraphs 15 (incorrectly numbered 8), 16 (incorrectly numbered 9), 17 (incorrectly numbered 10), 18 (incorrectly numbered 11) and 19 (incorrectly numbered 12) of the Complaint, Defendant submits that said documents speak for themselves and accordingly, refer all matters of law and legal interpretation to the Court. To the extent that a response is required, Defendant denies knowledge and information sufficient to form a belief as to the allegations set forth therein.

5. With regard to the allegations set forth in paragraphs 1, 2, 3, 4, 5, 6, and 7 of the Complaint, Defendant submits that said paragraphs call for a legal conclusion and refer all matters of law and legal interpretation to the Court. Defendant denies knowledge and information sufficient to form a belief as to all other allegations set forth therein.

6. Defendant repeats, and reiterates the responses to the allegations set forth and referenced in paragraphs 23 (incorrectly numbered 16), 26 (incorrectly numbered 19) and 29 (incorrectly numbered 22) of the Complaint herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

7. The causes of action set forth in the Complaint fails to state a claim upon which relief may be granted.

8. By virtue of the foregoing, the Complaint should be dismissed, with prejudice.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

9. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "8", inclusive, with the same force and effect as if set forth at length herein.

10. The Plaintiff's causes of action are barred by the applicable statute of limitations.

11. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

12. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "11", inclusive, with the same force and effect as if set forth at length herein.

13. If the Plaintiff has incurred any damages herein, it is as a result of their own culpable conduct, and not that of the Defendants.

14. By virtue of the foregoing, the Complaint should be dismissed as against the Defendants.

AS AND FOR A FIRST COUNTERCLAIM AGAINST PLAINTIFF

15. Defendant repeats, reiterates and realleges each and every response contained in paragraphs "1" through "14", inclusive, with the same force and effect as if set forth at length herein.

16. Defendant submits that the instant action has been interposed by Plaintiff in bad faith and for the purpose of harassment.

17. By virtue of the foregoing, pursuant to 15 U.S.C. 1692k(a)(3), Defendant is entitled to an award of reasonable attorneys fees and costs incurred herein.

WHEREFORE, Defendant respectfully demands judgment dismissing the Complaint herein in its entirety, and granting Defendant judgment on its counterclaim, together with such other, further and different relief as this Court deems just and proper.

Dated: Melville, New York
August 6, 2008

Law Offices of Michael G. Mc Auliffe, Esq.
Counsel to The Law offices of Cohen &
Slamowitz, LLP.

By: */s/ Michael G. Mc Auliffe*
Michael G. Mc Auliffe, Esq. (MGM3024)
48 South Service Road, Suite 102
Melville, New York 11747
(631) 465-0044

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AFFIDAVIT OF SERVICE BY FIRST CLASS MAIL

STATE OF NEW YORK)
)
COUNTY OF SUFFOLK)

Andrea Savin, being duly sworn, deposes and says:

I am not a party in the above referenced action, am over 18 years of age and reside in Nassau County, New York. On August 6, 2008, I served a copy of the within "**ANSWER OF COHEN & SLAMOWITZ WITH AFFIRMATIVE DEFENSES AND COUNTERCLAIM and RULE 7.1 STATEMENT**", by depositing a true copy thereof enclosed in a post-paid wrapper, in an official depository under the exclusive care and custody of the U.S. Postal Service within New York State, addressed to each of the entities set forth below, at the last known address set forth after each name as follows:

Schlanger & Schlanger, Esq.
1025 Westchester Avenue, Suite 108
White Plains, NY 10604
Attn.: Daniel A. Schlanger, Esq.

/s/ Andrea Savin
Andrea Savin

Sworn to before me on this 6th day
of August, 2008

/s/ Michael G. Mc Auliffe
NOTARY PUBLIC